

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Before the Board of Patent Appeals and Interferences

In re Patent Application of

NIGHTINGALE

Serial No. 10/764,495

Filed: January 27, 2004

Title: APPARATUS AND METHOD FOR PERFORMING HARDWARE AND SOFTWARE  
CO-VERIFICATION TESTING

**Mail Stop Appeal Brief - Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Atty Dkt. 550-510

C# M#

TC/A.U.: 2128

Examiner: Alhija, Saif A.

Date: July 23, 2007



1Fw

Sir:

☐ Correspondence Address Indication Form Attached.

☐ **NOTICE OF APPEAL**

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences  
from the last decision of the Examiner twice/finally rejecting \$500.00 (1401)/\$250.00 (2401) \$  
applicant's claim(s).

☐ An appeal **BRIEF** is attached in the pending appeal of the  
above-identified application. **FEE PREVIOUSLY PAID** \$  
**MAY 30, 2007.** \$500.00 (1402)/\$250.00 (2402)

☐ Credit for fees paid in prior appeal without decision on merits -\$ ( )

☒ Response to Notice of Non-Compliant Appeal Brief.

☐ Petition is hereby made to extend the current due date so as to cover the filing date of this  
paper and attachment(s)  
One Month Extension \$120.00 (1251)/\$60.00 (2251)  
Two Month Extensions \$450.00 (1252)/\$225.00 (2252)  
Three Month Extensions \$1020.00 (1253)/\$510.00 (2253)  
Four Month Extensions \$1590.00 (1254)/\$795.00 (2254) \$

☐ "Small entity" statement attached.

Less month extension previously paid on -\$ ( )

**TOTAL FEE ENCLOSED \$ 0.00**

Any future submission requiring an extension of time is hereby stated to include a petition for such time extension.  
The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or  
asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this  
firm) to our **Account No. 14-1140**. A duplicate copy of this sheet is attached.

901 North Glebe Road, 11th Floor  
Arlington, Virginia 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100  
JRL:maa

NIXON & VANDERHYE P.C.  
By Atty: John R. Lastova, Reg. No. 33,149

Signature: \_\_\_\_\_

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\* \* \* \* \*

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Sir:

**RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF**

In response to the Notice of Non-Compliant Appeal Brief dated July 6, 2007,  
Appellant respectfully submits that the Appeal Brief is compliant.

The notice states that “the summary of claimed subject matter does not map the independent claims on appeal, to the specification by page and line number and to the drawings, if any (claims 18 and 35).” This is simply not true. An extensive mapping of the claims is provided in the summary section of the brief. There is even a table mapping independent claim 1 onto an example non-limiting embodiment of the specification. Specific pages, lines numbers, and figures are referred to in the table. At the top of page 7, the brief states “because independent method claim 18 is a method analog of apparatus claim 1 and independent computer product claim 35 is a computer product analog of apparatus claim 1, the mapping provided for claim 1 also applies.” Appellant sees no

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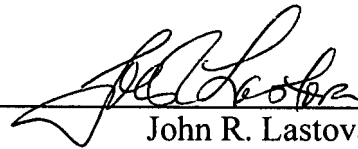
point in repeating the very same claim chart mapping for each of independent claims 18 and 35.

Accordingly, the Appeal Brief is compliant, and substantive consideration is respectfully requested.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_



John R. Lastova  
Reg. No. 33,149

JRL:maa  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100